

In the drawings:

Please approve the proposed drawing changes shown in red on the attached copies of drawing sheets containing Figures 1, 2, 4, 5 and 9/8C. Reference numbers are revised in Figures 1, 2, 4 and 5. The drawing figure labeled "Figure 9" has been corrected to identify the Figure as "Figure 8C", as identified in the original application papers. No Figure designated as "Figure 9" was originally filed. Replacement sheets of formal drawings containing the changes are concurrently filed herewith.

REMARKS

Claims 1 - 19 remain active in this application. The indication of allowability of the subject matter of claims 13 - 15 is noted with appreciation. Claims 1 - 9 have been withdrawn from consideration as being non-elected, with traverse, in response to a requirement for restriction. The specification has been reviewed and editorial revisions made where seen to be appropriate. Claims 10 and 12 have been amended to more clearly recite novel features of the invention and to improve descriptiveness and form. Support for the amendments of the claims is found throughout the application, particularly in Figures 6 and 8C and the description thereof on pages 9 - 13 as well as allowed claims 13 - 15 and withdrawn claim 1. No new matter has been introduced into the application.

Restriction has been required between Group I, method claims 1 - 9, and Group II, device claims 10 - 19. The previous election, with traverse, of the invention, as identified by the Examiner, of Group II, claims 10 - 19, is acknowledged. However, it is noted in this regard that the Examiner has erroneously indicated claim 10 to have been withdrawn from consideration on the action summary form PTOL-326.

The requirement for restriction is respectfully traversed since the Examiner has not properly demonstrated distinctness of the identified inventions or demonstrated the existence of a serious burden of examination in the absence of such a requirement. In regard to distinctness, while the Examiner has correctly stated the criterion for such a demonstration, the example given is not the article claimed made by another process but only an article *having a similar property* asserted to be possibly made by a different process. That is, a pair of transistors having differently stressed films and a force isolation

layer, as claimed, is a far different structure from that which could be produced by implanting oxygen in some unspecified structure notwithstanding the fact that carrier mobility may be altered. Therefore, the Examiner has not provided a *prima facie* demonstration of distinctness between the identified inventions. In regard to the existence of a serious burden of examination in the absence of a requirement for restriction, while the Examiner has asserted separate classification, there is no demonstration that the identified inventions are not classifiable together, that the searches would not be substantially congruent or that an examination cannot be given *without* a serious burden. Since the Examiner has not met either of the requirements for properly supporting a requirement for restriction, it is respectfully submitted that the requirement is not, in fact, justified and, upon reconsideration, should be withdrawn. Therefore, such action is respectfully requested.

The Examiner has objected to the specification due to a typographical matter. This objection is respectfully traversed as moot in view of the amendments made above which include correction of the passage criticized by the Examiner in which the Examiner's suggestion has been adopted.

The Examiner has objected to the drawings as failing to illustrate the recited source drain and gate silicide. This objection is respectfully traversed since these claimed features are, in fact, illustrated. Reference numbers have been revised in the specification and, in some cases, applied in the drawings to clarify the illustration thereof. Additionally, since it appears that the term "silicide" (being a common feature of many known transistor designs) is unnecessary to a recitation of the distinguishing features of the invention, the term

"silicide" has been deleted from the claims. The source, drain and gate are clearly illustrated as would be recognized by those of ordinary skill in the art even though the source and drain regions are not separately identified by reference numerals. Accordingly, reconsideration and withdrawal of this ground of objection is respectfully requested.

Claims 10 - 12 and 16 - 19 have been rejected under 35 U.S.C. §102 as being anticipated by Hachimene et al. This sole ground of rejection is respectfully traversed, particularly in view of the amendments made above.

While Hachimene et al. is directed to adjusting carrier mobility with stressed films 14a and 14b, the Examiner seeks to read "a *shear force isolating* film separating said first film and said second film in at least one area" (emphasis added) on film 15 of Hachimene et al. which is not seen to have a "force isolating" property attributed to it by Hachimene et al. (see paragraph 0170, 0196 - 0198, 0203, 0207 and 0210 which appear to be the only references thereto in Hachimene et al.) and, in any event, even though it is deposited on stressed layer 14a, does not physically "separate" layers 14a and 14b or have the function of doing so except at the intermediate step illustrated in Figure 15 after which layer 14b is immediately removed as shown in Figures 16 and 17. In any event, no function of force isolation is attributed to layer 15 and cannot be considered to be inherent under 35 U.S.C. §102 (or §103) since Hachimene et al. teaches removal of layer 14b overlying layer 14b using layer 15 as an etch stop, presumably so that forces therein do not affect forces in layer 14a. Note for example, the discussion of force interaction which would occur without removal of portions of layers 14a and 14b in respective p-type and n-type transistors in paragraph 0214. Simply put, "separating" is not synonymous with

"located between", particularly in view of the original recitation of "shear force isolating" or as now amended, for emphasis, to refer to separation of compressive and tensile stress in respective layers. Accordingly, Hachimene et al. does not answer at least the original recitation of "shear force isolation" and thus does not anticipate any claim in the application as originally filed. This deficiency of Hachimene et al. and the errors in the rejection as stated is emphasized by the amendatory recitation of "separating said first film and said second film and said tensile and compressive stress therein".

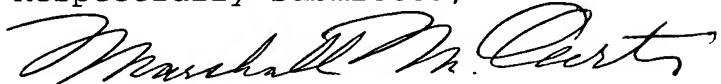
Furthermore, the stressed layers of Hachimene et al. do not overlap at any point in the completed device (as now additionally claimed) and force isolation by separation of those layers by another (unstressed) layer would have no function in the completed device of Hachimene et al. Therefore, Hachimene et al. not only fails to anticipate any claim in the application but would not support a conclusion of obviousness since there would be no motivation for any modification to answer the explicit recitations of the claims or evidence of a level of ordinary skill in the art which would support a conclusion of obviousness in regard to inclusion of "a shear force isolating film separating said first film and said second film" in the recited combination.

Accordingly, It is respectfully submitted that the sole asserted ground of rejection is in error and untenable and that the Examiner has not made a *prima facie* demonstration of anticipation of any claim, even by the intermediated structure of Figure 15 and certainly cannot properly be maintained in regard to the claims as now amended. Therefore, upon reconsideration, withdrawal of the sole ground of rejection in this application is respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 09-0458 of International Business Machines Corporation (East Fishkill).

Respectfully submitted,



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Annotated Marked-Up Drawings

1/10
DORIS ET AL.
JPA FIS920030264US1

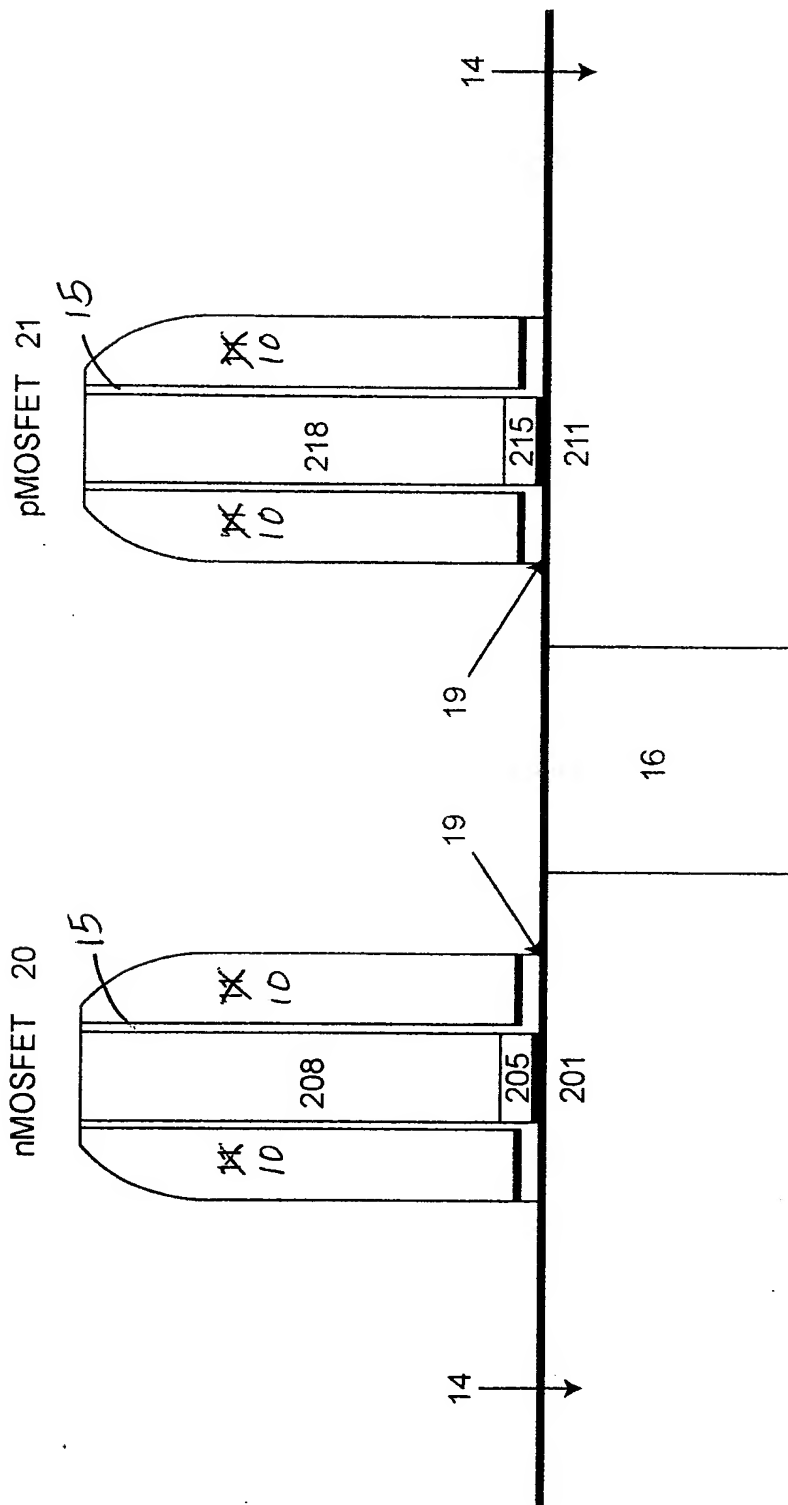


FIGURE 1

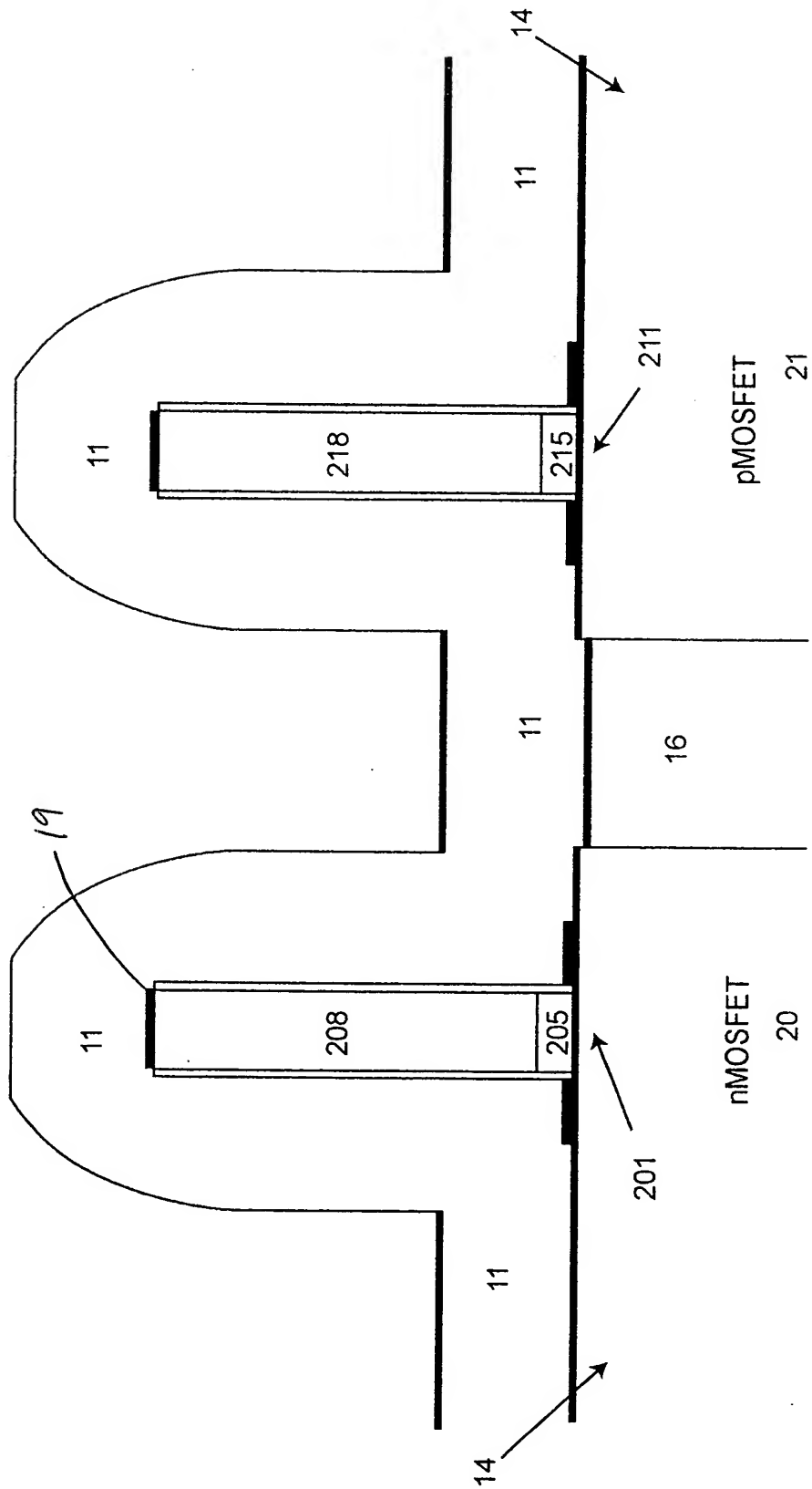


FIGURE 2

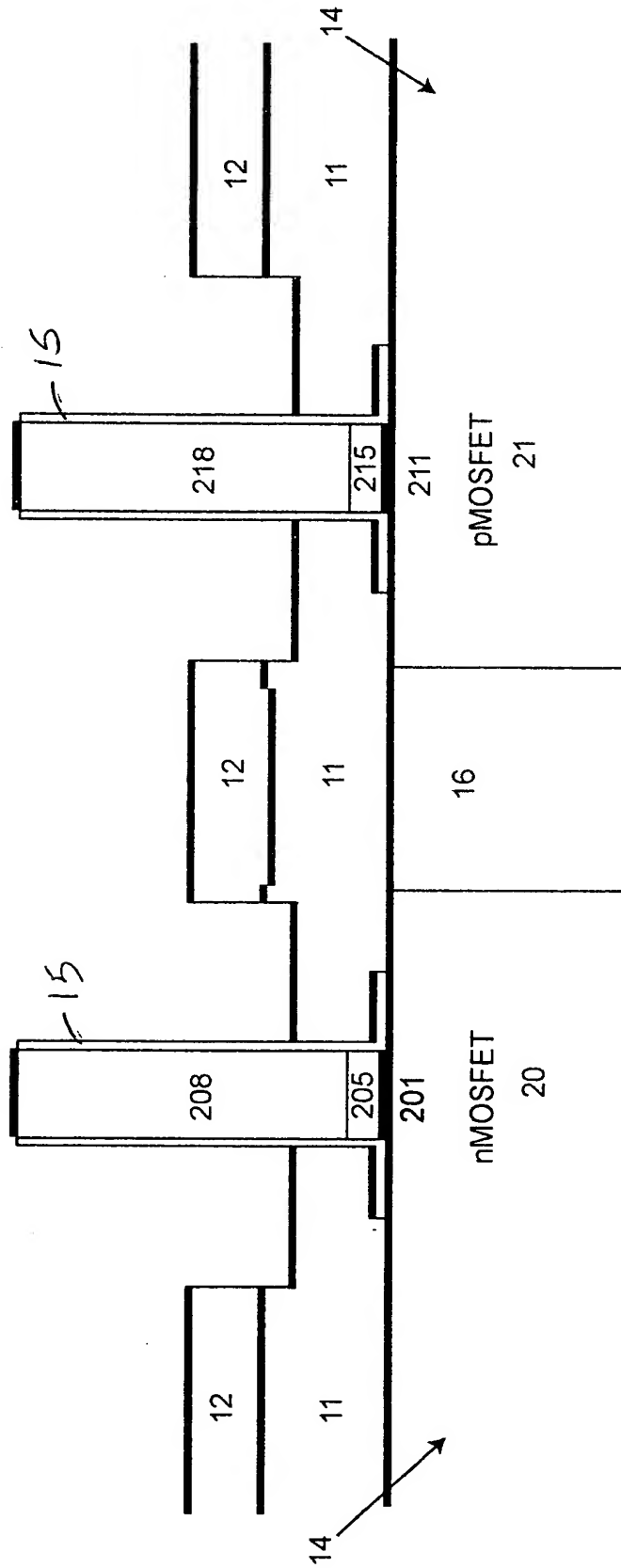


FIGURE 4

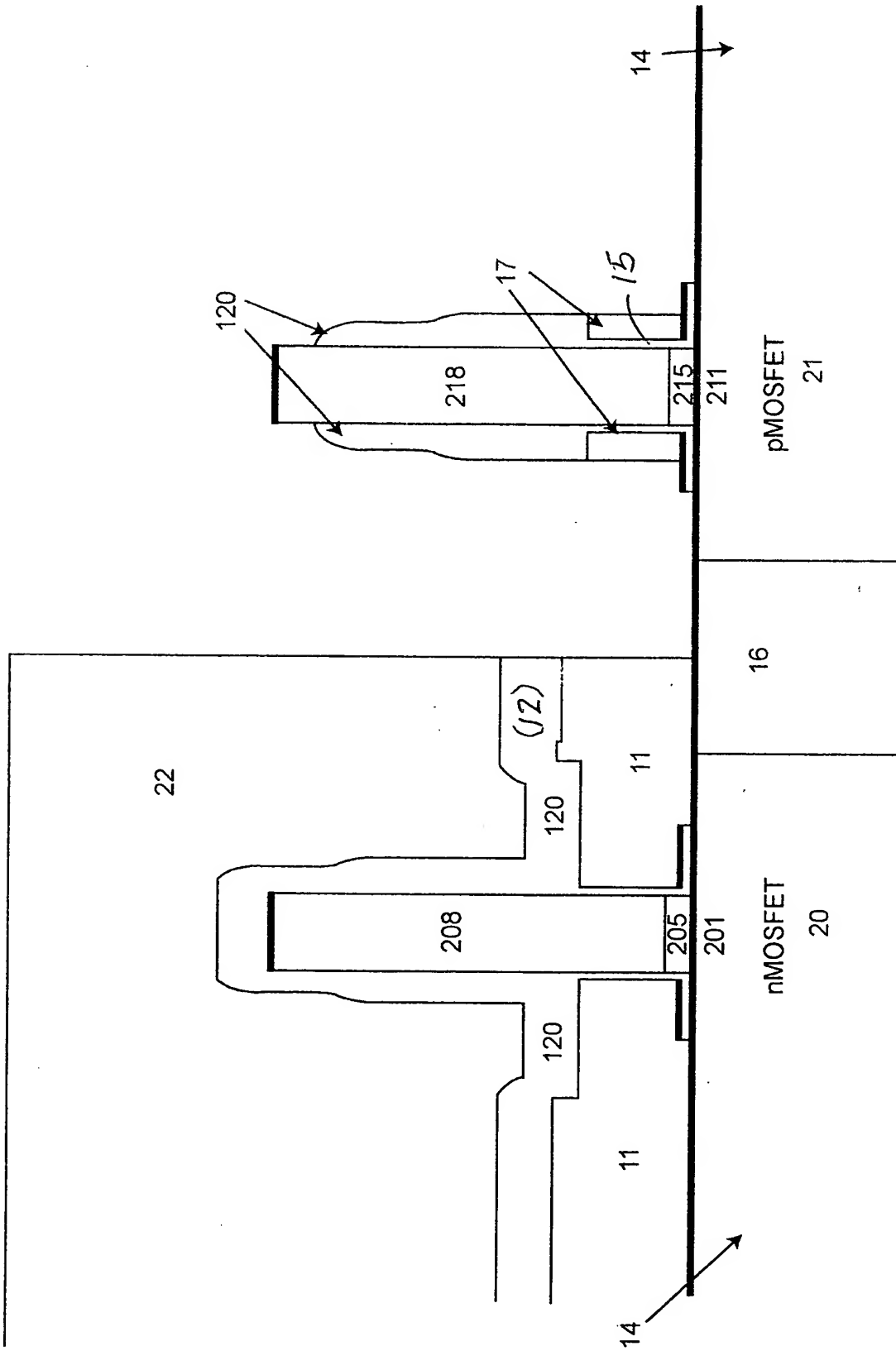


FIGURE 5

